

## **CIVIL SERVICE COMMISSION MINUTES**

**June 6, 2001**

A Regular Meeting of the Civil Service Commission was held at 2:30 p.m., in Room 358 at the County Administration Building, 1600 Pacific Highway, San Diego, California.

Present were:

Mary Gwen Brummitt  
Gordon Austin  
Barry I. Newman  
Roy Dixon

Absent was:

Sigrid Pate

Comprising a quorum of the Commission

Support Staff Present:

Larry Cook, Executive Officer  
Ralph Shadwell, Senior Deputy County Counsel  
Selinda Hurtado-Miller, Reporting

CIVIL SERVICE COMMISSION MINUTES  
June 6, 2001

2:30 p.m. OPEN SESSION: Room 358, 1600 Pacific Highway, San Diego,  
California 92101

PRE-AGENDA CONFERENCE

<u>Discussion Items</u>	<u>Continued</u>	<u>Referred</u>	<u>Withdrawn</u>
<u>5,6,7,9,12,17</u>	<u>6,11,12,</u>	<u>9,10</u>	<u>4</u>

COMMENTS Motion by Newman to approve all items not held for discussion;  
seconded by Dixon. Carried.

**REGULAR AGENDA**  
**County Administration Center, Room 358**

NOTE: Five total minutes will be allocated for input on Agenda items unless additional time is requested at the outset and it is approved by the President of the Commission.

**MINUTES**

1. Approval of the Minutes of the regular meeting of May 2, 2001.

**Approved.**

**CONFIRMATION OF ASSIGNMENTS**

2. Commissioner Brummitt: Wendell Prude, S.E.I.U. Local 2028, on behalf of **Ignacio Ochoa**, Building Maintenance Engineer, appealing an Order of Suspension and Charges by the Department of General Services.

**Confirmed.**

3. Commissioner Austin: Richard Pinckard, Esq., on behalf of **Adam Krachman**, Deputy Sheriff, appealing an Order of Pay Step Reduction and Charges by the Sheriff's Department.

**Confirmed.**

**WITHDRAWALS**

4. **Luis Cortes**, Eligibility Technician, Health and Human Services Agency (HHS), appealing a letter of Resignation Upon Failure to Return After Leave by the HHS.

**Withdrawn.**

**SELECTION PROCESS**

**Complaints**

5. **Richard Poole**, appealing the Department of Human Resources' decision to not place him on the employment list for the classification of Supervising Community Health Promotion Specialist.

RECOMMENDATION: Grant Request.

Tony Albers, Deputy County Counsel, on behalf of DHR, clarified that the specifications regarding education are clearly County requirements. Mr. Albers proposed that 1978 course descriptions from Yale University be reviewed by a subject matter expert from a local university, to determine whether there was a specialization wherein Mr. Poole's educational background would meet the requirements of the County's specifications of health education for the classification of Supervising Community Health Promotion Specialist.

Mr. Poole agreed with Mr. Albers' proposal for further analysis by a subject matter expert. He suggested that contacting someone at Yale, who had been teaching in 1978, could provide a fair analysis of the course material.

The Commission determined that it should be the adjudicator of whether or not Mr. Poole's current educational background meets the criteria by avenue of a hearing.

**Motion by Dixon to approve staff recommendation. Seconded by Austin. Carried. Commissioner Pate assigned. (Should Commissioner Pate be unable to hear this matter, Commissioner Newman is assigned as the alternative hearing officer.)**

6. S.E.I.U. Local 535, on behalf of **Karen E. Pittman**, Eligibility Technician, Health and Human Services Agency (HHSA), appealing the Department of Human Resources' decision to not place her on the employment list for the classification of Public Assistance Investigative Trainee due to her failure of the pre-employment psychological evaluation.

RECOMMENDATION: Deny Request.

Brenda Sammons, SEIU Local 535, on behalf of appellant requested a continuance in this matter due to the fact that Ms. Pittman was unable to appear because of employment commitments and she would like to address the Commission at a later date.

Larry Cook, Executive Officer, explained that he had spoken with the Department representative and the Department would have no objection to a continuance. He suggested that this matter be continued to the next Commission meeting.

**Motion by Newman to continue this matter until the next Commission meeting; seconded by Austin. Carried.**

7. **Alfred LeSane**, Deputy Public Defender II, appealing his non-selection for the classification of Deputy Public Defender III by the Department of the Public Defender.

RECOMMENDATION: Hold in abeyance pending resolution of the discrimination investigation. (See also No. 9 below.)

**Staff recommendation approved.**

8. **Tom Basinski**, District Attorney Investigator III, appealing his non-selection for the classification of District Attorney Investigator IV by the Office of the District Attorney.

RECOMMENDATION: Hold in abeyance pending the outcome of the discrimination investigation. (See also No. 10 below.)

**Staff recommendation approved.**

## **DISCRIMINATION**

### **Complaints**

9. **Alfred LeSane**, Deputy Public Defender II, alleging retaliation discrimination by the Department of the Public Defender.

RECOMMENDATION: Continue to the next Commission meeting pending clarification from complainant as to the non-job related factor(s) that resulted in alleged discrimination. (See also No. 7 above.)

Barrett Foerster, Esq. on behalf of Mr. LeSane, requested that this matter move forward at this time due to the 60-day time limit from which the appeal was filed with the Commission (April 26, 2001). He stated that Mr. LeSane's supplemental petition sets forth clarification as to the non-job related factors: race, sexual preference, and retaliation regarding testimony Mr. LeSane gave on alleged sexual harassment of a co-worker. Mr. Foerster requested that the appeal be forwarded to the Office of Internal Affairs for investigation.

Larry Cook, Executive Officer, thanked Mr. Foerster for his clarification of the alleged discrimination and recommended to the Commission that this appeal be forwarded to OIA.

**Motion by Austin to assign an Investigating Officer and concurrently appoint the Office of Internal Affairs to conduct an investigation and report back. Seconded by Newman. Carried. Commissioner Newman assigned.**

10. **Tom Basinski**, District Attorney Investigator III, alleging non-job related factor discrimination by the Office of the District Attorney.

RECOMMENDATION: Assign an Investigating Officer and concurrently appoint the Office of Internal Affairs to conduct an investigation and report back. (See also No. 8 above.)

**Staff recommendation approved. Commissioner Dixon assigned.**

## **RECONSIDERATION**

11. **Michael Rossler** and **Alvin Williams**, Housing Specialist I's, requesting reconsideration of the Commission's March 7, 2001 decision regarding their selection process complaint against the Department of Housing and Community Development.

RECOMMENDATION: Read correspondence and continue until after the Office of Internal Affairs (OIA) has completed its investigation. (Continued from the April 4, 2001 Commission meeting.)

**Staff recommendation approved. Continued.**

## **OTHER MATTERS**

### **Performance Appraisals**

12. Discussion of matters relating to sealing Performance Appraisals.

Larry Cook, Executive Officer, suggested that the Commission could discuss this matter, or in the alternative, continue it until all five Commissioners are present. (Commissioner Pate was scheduled to be present but fell unexpectedly ill.)

The Commission opted to table this matter until all five Commissioners are present.

**Motion by Newman to continue; seconded by Dixon. Carried.**

**Ratification of Medical Provider**

13. Ratification of **Robert Alan Pedowitz, M.D., Ph.D.** as an additional name to the list of medical providers to be used for fitness for duty evaluations at the request of the Department of Human Resources.

RECOMMENDATION: Ratify Provider.

**Item No. 13 ratified.**

**Extension of Temporary Appointments**

14. Health and Human Services Agency

- A. 42 Protective Services Worker I's (Janet Barragan, Mark Broughton, Stacie Bresler, Gina Brown, Tammy Campbell, Jennifer Cook, Evangelina Correa, Karena Doan, Angela Dyke, Tabitha Eaden, Joshua Garcia, Teri Gould, James Greenlee, Lilia Izarraras, Vanessa Johnson, Kevin Kuhn, Marti Lee, Anthony Liefer, Linda Martin, Joline Martina, Martha McKie, Sharon McMunn, Arlene Merino, Tamara Meyer, Jonathan Ogle, Michelle Pappalardi, Lisa Perez, Thomas Provencio, Arturo Quesada, Carmen Robles, Erik Sanchez, Catherine Smullen, Sherri Stubblefield, William Tanner Jr., Tina Thibault, Rose Marie Trejo, Scott Vancamp, Leah Van Lingen, Jennifer Verneti, Marisol Virto, Tracy Willis, Ralph Younger)
- B. 7 Residential Care Worker Trainees (Betty Funk, Josie Brucelas, Narcisa Radoc, Melissa Kidd, Cindy Huynh, Kelley Bubar, Melinda Anderson)
- C. 1 Residential Care Worker II (Michael Palenzuela)
- D. 1 Public Health Nurse IV (Julie Webster)
- E. 1 Administrative Secretary I (Maria Lynne)

15. Department of Parks and Recreation

- A. 1 Payroll Clerk (Mary Taylor)
- B. 1 Assistant Park Project Manager (John Nicoletti)

16. Department of Public Works

1 Airports Operations Coordinator (Kenneth Seymour)

RECOMMENDATION: Ratify Item Nos. 14-16.

**Item Nos. 14-16 ratified.**

17. Public Input.

A. Adelle Burge, employee with the Department of the Public Defender addressed the Commission regarding clarification of Rules VI and X. She questioned whether the Commission has the power to order an injured party to be hired by an appointing authority. Larry Cook, Executive

Officer replied in the negative and Ralph Shadwell, Deputy County Counsel, concurred.

Ms. Burge asked whether a Rule X appeal in this County had ever been writted pursuant to CCP Section 1094.5. Mr. Cook recalled one appeal that had been writted, however it was in conjunction with a Rule VI complaint. Mr. Shadwell suggested that Ms. Burge might want to discuss these matters further with her union's attorney.

Upon further questioning by Ms. Burge, Mr. Shadwell advised that he had to legally advise the Commission to not freely discuss an item that was not placed on an agenda for discussion.

The President of the Commission asked if there was any further discussion under public input.

B. As a point of clarification by Mr. Cook about Item No. 9 above:

Regarding a discrimination matter, when an investigating officer is assigned concurrently with OIA, the officer could be involved from the outset. Usually, however, the officer awaits the report from OIA's investigation.

A further clarification from Mr. Shadwell about Item No. 9 above:

Mr. LeSane has filed a complaint with EEOC and customarily, the Commission will hold in abeyance any complaint that will be sent to OIA.

Mr. Cook advised the Commission to proceed with its decision to have OIA commence its investigation. At this point, Commission staff has not been provided a copy of the complaint sent to EEOC. Should the discrimination complaint be a duplicate complaint, at that point OIA may advise the Commission to hold the Rule VI in abeyance. The Commission concurred with Mr. Cook's recommendation.

ADJOURNMENT: 3:25 p.m.

**NEXT MEETING OF THE CIVIL SERVICE COMMISSION WILL BE JUNE 20, 2001.**